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TRADEMARK—INJUNCTION.—OMEGA OIL Co. v. WESCHLER ET AL., 71 N. Y. Supp. 983.—Plaintiff under the trademark of “Omega Oil” manufactured a green liniment, green being the distinctive color of the labels and advertisements also. The defendants placed upon the market a green medicated soap, put up in green wrapping, under the name of “Omega Oil Medicated Soap,” using in the manufacture a small quantity of “Omega Oil.” *Held*, that the defendants be restrained from using the words “Omega Oil.”

The decision is based on the assumption that the liniment and the soap, being used for essentially the same purposes and therefore coming into direct competition with each other in sale, belong to the same class of goods. *Carroll v. Ertheiler*, 1 Fed. 688. The choice of the words “Omega Oil,” and of the color was calculated to deceive the public into the belief that plaintiff’s article was put up for sale in another form, or that the soap was manufactured by plaintiff or by his consent—a species of competition which courts of equity hold to be unfair. *Fairbank Co. v. Bell Mfg. Co.*, 77 Fed. 869. Nor does the use of a part of the product in the manufacture, allow the use of the name. *Church & Dwight Co. v. Russ*, 99 Fed. 276. But the mere use of the color, green, in articles and wrappings apart from the name, cannot be enjoined. *Fischer v. Blank*, 138 N. Y. 244.